

# **EXHIBIT 38**

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE EASTERN DISTRICT OF NEW JERSEY  
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IN RE JOHNSON & JOHNSON )  
TALCUM POWDER PRODUCTS ) MDL NO.  
MARKETING, SALES PRACTICES, ) 16-2738 (FLW) (LHG)  
AND PRODUCTS LIABILITY )  
LITIGATION )  
)

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IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS  
STATE OF MISSOURI

VALERIE SWANN, )  
Plaintiff, ) Cause No.  
v. ) 1422-CC09326-03  
JOHNSON & JOHNSON, et al., )  
Defendants. )

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Monday, — — —  
— — —

Oral Deposition of JUDITH WOLF, M.D.,  
held at the Fairmont Hotel, 101 Red River  
Street, Austin, Texas, commencing at  
9:03 a.m. CDT, on the above date, before  
Michael E. Miller, Fellow of the Academy of  
Professional Reporters, Certified Court  
Reporter, Registered Diplomate Reporter,  
Certified Realtime Reporter and Notary  
Public.

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Page 2		Page 4	
1	A P P E A R A N C E S:	1	INDEX
2	BEASLEY ALLEN PC	2	JUDITH WOLF, M.D.
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7	(334) 269-2343	7	
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9	ONDERLAW LLC	9	BY MR. ZELLERS 10
10	BY: CYNTHIA L. GARBER, ESQUIRE	10	
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25		25	
Page 3		Page 5	
1	A P P E A R A N C E S:	1	DEPOSITION EXHIBITS
2	TUCKER ELLIS LLP	2	NUMBER MARKED
3	BY: MICHAEL C. ZELLERS, ESQUIRE	3	Wolf-1 Notice of Deposition 12
4	michael.zellers@tuckerellis.com	4	Wolf-2 Documents Produced by 16
5	515 South Flower Street	5	Plaintiffs to Dr. Wolf
6	42nd Floor	6	Wolf-3 7/2/21 MDL Expert Report 17
7	Los Angeles, California 90071	7	Wolf-4 Redline of 7/2/21 Expert 17
8	(213) 430-3400	8	Report
9	Counsel for Johnson & Johnson Defendants	9	Wolf-5 Scientific Literature and 19
10	FAEGRE DRINKER BIDDLE & REATH LLP	10	Other Sources
11	BY: ERIC M. FRIEDMAN, ESQUIRE	11	Wolf-6 8/11/21 Bondurant Expert 26
12	eric.friedman@faegredrinker.com	12	Report
13	(via Zoom)	13	Wolf-7 7/2/21 Gallardo Expert Report 27
14	300 North Meridian Street	14	Wolf-8 7/2/21 Judkins Expert Report 27
15	Suite 2500	15	Wolf-9 7/16/21 Swann Expert Report 28
16	Indianapolis, Indiana 46204	16	Wolf-10 Invoices 29
17	(317)237-0300	17	Wolf-11 Summary of Comments on 68
18	Counsel for Johnson & Johnson Defendants	18	IMERYS094601
19		19	Wolf-12 Summary of Comments on 72
20		20	IMERYS230366
21		21	Wolf-13 Excerpt from IARC 2012 123
22		22	Wolf-14 Excerpt from IARC 2012 157
23		23	Wolf-15 Complete IARC 2012 Monograph 157
24		24	Wolf-16 Excerpt from IARC 2010 157
25		25	

		Page 6			Page 8
1	DEPOSITION EXHIBITS		1	DEPOSITION EXHIBITS	
2	Wolf-17 Complete IARC 2010 Monograph	158	2	Wolf-31 Endometriosis and Infertility,	346
3	Wolf-18 Relation of Particle Dimension	159	3	by Bulletti et al	
4	to Carcinogenicity in		4	Wolf-32 Epithelial Mutations in	351
5	Amphibole Asbestoses... by		5	Endometriosis: Link to Ovarian	
6	Stanton et al		6	Cancer, by Bulun et al	
7	Wolf-19 Mineralogical Features	159	7	Wolf-33 Medical Record(s),	358
8	Associated with Cytotoxic and		8	GALLARDO_ANNA_DRWASSERMAN_00001 -	
9	Proliferative Effects of		9	GALLARDO_ANNA_DRWASSERMAN_00014	
10	Fibrous Talc... by Wylie et al		10	Wolf-34 Examining the Associations	359
11	Wolf-20 Association of Powder Use in	170	11	Among Fibrocystic Breast	
12	the Genital Area with Risk of		12	Change, Total Lean Mass, and	
13	Ovarian Cancer, by O'Brien		13	Percent Body Fat, by Chen	
14	et al		14	et al	
15	Wolf-21 Use of Powder in the Genital	186	15	Wolf-35 Caesarean Section and Risk of	363
16	Area and Ovarian Cancer Risk,		16	Endometriosis... by Andolf	
17	by Gossett et al		17	et al	
18	Wolf-22 6/30/21 Siemiatycki Amended	192	18	Wolf-36 Morphological and	371
19	Expert Report		19	Immunohistochemical	
20	Wolf-23 Talcum Powder Induces a	194	20	Re-evaluation of Tumors	
21	Malignant Transformation in		21	Initially Diagnosed as Ovarian	
22	Normal Ovarian Epithelial		22	Cancer... by Lim et al	
23	Cells Poster		23		
24			24		
25			25		
		Page 7			Page 9
1	DEPOSITION EXHIBITS		1	DEPOSITION EXHIBITS	
2	Wolf-24 Talcum Powder Induces	228	2	Wolf-37 Risk of Gynecologic Cancer	373
3	Malignant Transformation of		3	According to the Type of	
4	Human Primary Normal Ovarian		4	Endometriosis, by Saavalainen	
5	Epithelial Cells But Not Human		5	et al	
6	Primary Normal Peritoneal		6	Wolf-38 7/21/21 Godleski Expert Report	377
7	Fibroblasts Poster		7	re: Gallardo	
8	Wolf-25 Kleiner Trial Testimony	246	8	Wolf-39 Perineal Exposure to Talc and	387
9	Wolf-26 Health Canada Screening	285	9	Ovarian Cancer Risk, by Harlow	
10	Assessment		10	et al	
11	Wolf-27 Clinical Presentation of	332	11		
12	Endometrioid Epithelial		12		
13	Ovarian Cancer with Concurrent		13		
14	Endometriosis... by Lim et al		14		
15	Wolf-28 Risk of Endometrial Polyps in	334	15		
16	Women with Endometriosis... by		16		
17	Zheng et al		17		
18	Wolf-29 Medical Record(s),	337	18		
19	GALLARDO_ANNA_BJH_00011 -		19		
20	GALLARDO_ANNA_BJH_00014		20		
21	Wolf-30 Medical Record(s),	344	21		
22	GALLARDO_ANNA_BJH_00033 -		22		
23	GALLARDO_ANNA_BJH_00037		23		
24			24		
25			25		



1 class 1 carcinogen. And it's the combination  
2 of that, the use of that talcum powder that  
3 caused her cancer.

4 BY MR. ZELLERS:

5 Q. What is your evidence of that?  
6 DR. THOMPSON: Object.

7 BY MR. ZELLERS:

8 Q. I understand your opinion with  
9 respect to talc.

10 A. That's what she used. That's  
11 what she used and that's what has been found  
12 in talcum powder.

13 Q. What evidence do you have that  
14 any heavy metal contained in Johnson's Baby  
15 Powder causes endometrioid ovarian cancer?

16 DR. THOMPSON: Object to form.

17 A. I don't know that there's any  
18 evidence, but I don't know that anybody's  
19 ever studied specifically those heavy metals,  
20 chromium, nickel, cobalt, which can be  
21 carcinogenic, cause ovarian cancer  
22 specifically. They're carcinogenic.

23 BY MR. ZELLERS:

24 Q. Your opinion is that it's talc,  
25 whatever the talc --

1 A. It's the use of the product,  
2 and in evaluating her tissues, there was  
3 evidence of talc fibers and asbestos fibers.

4 BY MR. ZELLERS:

5 Q. Are you aware of whether or not  
6 any bottle of Johnson's Baby Powder that  
7 Ms. Gallardo claims to have used was ever  
8 tested for any potential contaminants?

9 A. Since the last time she opined  
10 that she used it was in 1988, unless she  
11 keeps a lot of things around for a long time,  
12 I would -- I would be amazed if it was.

13 Q. You're not one of  
14 Ms. Gallardo's treating physicians; is that  
15 right?

16 A. I am not.

17 Q. You're not involved in her  
18 diagnosis or treatment with respect to  
19 ovarian cancer, correct?

20 A. I am not.

21 Q. You've never met Ms. Gallardo;  
22 is that right?

23 A. I have not.

24 Q. Have you ever spoken with her  
25 husband?

1 A. It's the product.

2 Q. -- the product contains, that  
3 caused Ms. Gallardo's endometrioid ovarian  
4 cancer, correct?

5 A. It's a cause of her cancer.

6 Q. You're not trying to separate  
7 out the constituent parts of the talc to say  
8 that part of the talc is the cause of the  
9 endometrioid ovarian cancer?

10 A. I'm not. I'm saying what's in  
11 the product, what has been found in the  
12 product, there are multiple things that are  
13 carcinogens.

14 Q. You are not going to come to  
15 trial and say it was asbestos contamination  
16 in some bottles she used that cause ovarian  
17 cancer; fair?

18 DR. THOMPSON: Object.

19 BY MR. ZELLERS:

20 Q. You're going to say it was the  
21 use of the product with whatever constituent  
22 parts it contained?

23 DR. THOMPSON: Object to form.

24 MS. GARBER: Object to the  
25 form.

1 A. No.

2 Q. Her child?

3 A. No.

4 Q. Did you ask the lawyers if you  
5 could meet with or speak to Ms. Gallardo's  
6 family?

7 A. No.

8 Q. Have you ever determined the  
9 cause of an individual's ovarian cancer in  
10 your practice, your clinical practice,  
11 without meeting them?

12 A. Yes.

13 Q. Under what circumstance?

14 A. So phone consultations from  
15 other physicians. Tumor boards where we talk  
16 about patients that I've never seen or met  
17 that are my colleagues' patients. Many  
18 times.

19 Q. Have you ever spoken with any  
20 of Ms. Gallardo's treating physicians about  
21 her case?

22 A. No.

23 Q. In your case-specific report,  
24 pages 29 to 31, you list the case-specific  
25 materials on which you rely; is that right?

Page 422

1 A. The testing today often has  
2 more genes, yes.

3 BY MR. ZELLERS:

4 Q. You're aware that

5 Ms. Gallardo's mother had a [REDACTED]  
[REDACTED] in her forties?

7 A. I don't recall that from her  
8 records.

9 Q. Do you know whether or not  
10 Ms. Gallardo's mother had her [REDACTED] removed  
11 during her [REDACTED]?

12 A. I don't.

13 Q. If she did have her [REDACTED]  
14 removed, that would prevent her from  
15 developing ovarian cancer, correct?

16 A. Most of the time.

17 Q. So we just don't know whether  
18 Ms. Gallardo's mother would have developed  
19 any type of gynecologic cancer, including  
20 ovarian cancer, correct?

21 DR. THOMPSON: Object to form.

22 MS. GARBER: Object to the  
23 form.

24 A. We don't know about her  
25 ovaries. We know she had her [REDACTED] out.

Page 424

1 CERTIFICATE  
2 I, MICHAEL E. MILLER, Fellow of  
3 the Academy of Professional Reporters,  
4 Registered Diplomate Reporter, Certified  
5 Realtime Reporter, Certified Court Reporter  
and Notary Public, do hereby certify that  
prior to the commencement of the examination,  
JUDITH WOLF M.D. was duly sworn by me to  
testify to the truth, the whole truth and  
nothing but the truth.

6 I DO FURTHER CERTIFY that the  
7 foregoing is a verbatim transcript of the  
8 testimony as taken stenographically by and  
9 before me at the time, place and on the date  
hereinbefore set forth, to the best of my  
10 ability.

11 I DO FURTHER CERTIFY that pursuant  
12 to FRCP Rule 30, signature of the witness was  
13 not requested by the witness or other party  
before the conclusion of the deposition.

14 I DO FURTHER CERTIFY that I am  
15 neither a relative nor employee nor attorney  
16 nor counsel of any of the parties to this  
17 action, and that I am neither a relative nor  
18 employee of such attorney or counsel, and  
19 that I am not financially interested in the  
20 action.

21 MICHAEL E. MILLER, FAPR, RDR, CRR  
22 Fellow of the Academy of Professional Reporters  
23 NCRA Registered Diplomate Reporter  
24 NCRA Certified Realtime Reporter  
25 Certified Court Reporter

22 Notary Public in and for the  
23 State of Texas  
My Commission Expires: 7/9/2024

24 Dated: September 16, 2021  
25

Page 423

1 We don't know about her ovaries or her  
2 fallopian tubes. So I don't think there's  
3 any information to add to that one way or  
4 another.

5 MR. ZELLERS: All right. Let's  
6 end for today. Because we went out of  
7 order on this case, I may have a few  
8 follow-up questions tomorrow, but I've  
9 covered at least the bulk of my  
10 questions relating to Ms. Gallardo.

11 So we'll come back in the  
12 morning, and we will do the other  
13 three cases.

14 THE WITNESS: Okay.

15 MR. ZELLERS: Okay. We're off  
16 the record.

17 (Time noted: 6:01 p.m. CDT)  
18 --oo--

Page 425

## INSTRUCTIONS TO WITNESS

3 Please read your deposition over  
4 carefully and make any necessary corrections.  
5 You should state the reason in the  
6 appropriate space on the errata sheet for any  
7 corrections that are made.

8 After doing so, please sign the  
9 errata sheet and date it.

10 You are signing same subject to  
11 the changes you have noted on the errata  
12 sheet, which will be attached to your  
13 deposition.

14 It is imperative that you return  
15 the original errata sheet to the deposing  
16 attorney within thirty (30) days of receipt  
17 of the deposition transcript by you. If you  
18 fail to do so, the deposition transcript may  
19 be deemed to be accurate and may be used in  
20 court.